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September 2, 2003

Dockets Management System
U.S. Department of Transportation
Room Plaza 401
400 Seventh St., N.W.
Washington, DC 20591

SUBJECT: Docket No. FAA-2003-15085 - 36

Dear Sir or Madam:

Midwest Airlines wishes to submit comments to the subject Notice of Proposed Rulemaking from the FAA regarding Hazardous Materials Training Requirements.

We fully agree with the philosophy of increased awareness and education with regard to hazardous materials. Unfortunately, we do not feel this proposed rulemaking is an effective and appropriate method to accomplish this goal. Therefore, we respectfully request the FAA fully withdraw this proposed rulemaking.

It is our contention that in order to reduce the possibility of undeclared hazardous materials in the air transportation system, the best course of action is for increased education directed toward the flying public and shippers of cargo. In the past the FAA has indicated the intent to implement outreach efforts in this regard. We fully support increased public awareness of the dangers of hazardous materials and would welcome the opportunity to work with the FAA in this manner through the Air Transport Association (ATA), which is the principal trade and service organization of the U.S. scheduled airline industry.

Midwest Airlines is defined by the FAA as a "will-not carry" airline with regard to hazardous materials. In the course of our business we frequently contract with other Part 121 air carriers for various services throughout our system. Many of these contracts are with airlines that are "will carry" airlines with respect to hazardous materials. Because of the relative status between our company and the contractor the training, we provide them consists of informing them of our "will-not carry" status and procedures specific to any items listed under 49CFR 175.10 that we will transport. This eliminates the need to provide the contractor with additional training that would only mimic the training already provided to them by their own company, and would be of little or no benefit based upon existing knowledge obtained from their employer-provided training.

We fully agree that if a contractor is a "will-not carry" airline for hazardous materials and provides services for a "will carry" airline, the contractor needs to receive hazardous materials training from that airline, but we fail to understand the need for training to be provided when the status of the airline and contractor is reversed. Our opinion is this

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requirement is excessive and a costly burden to "will-not carry" airlines and does not provide any additional benefit to the contractor in performing the duties for which they have been contracted. Typically, a "will-not carry" airline's FAA-approved hazardous materials training is based upon a "recognize and refuse" theme in order to meet the requirements of their hazmat program. This proposal has the potential to eliminate the efficiencies available to "will-not carry" airlines while doing nothing to improve safety and compliance, as it will require substantial expansion of the airline's training resources with the end result being nothing more than a duplication of effort.

The training Midwest Airlines provides their employees, as with all airlines, is designed to provide each individual with material specifically designed for the duties they perform, i.e. "function-specific" training. Based on the information contained within Appendix N of the proposed rulemaking, it would appear the FAA has decided to require a training curriculum that follows a "one size fits all" philosophy. This is contrary to current established practice within the industry, and is also contrary to the guidelines contained in the International Civil Aviation Organization (ICAO) Technical Instructions, which specifies training "commensurate with their responsibilities" when addressing the type of training an individual must receive. We do not understand how the FAA could reach the conclusion that this change in training philosophy would accomplish the goals set forth in the rulemaking.

It appears that the FAA has not considered the measures currently in process from other governmental agencies, specifically the Transportation Security Administration (TSA) in regard to passenger baggage screening, and the Department of Transportation (DOT) in regard to the definition of "constructive knowledge." As these initiatives will greatly impact how an air carrier conducts its business, we feel it is inappropriate for the FAA to implement new training requirements for the airlines without considering the impact these agencies will have on airline operations concerning hazardous materials.

We find the requirement to provide our hazardous materials training program to all Part 145 repair stations we work with to be excessive and overly burdensome. As a "will-not carry" airline we advise all repair stations that perform services for us of our status with regard to the transportation of hazardous materials, and we have procedures in place to prevent a repair station from inadvertently shipping an item owned by us that is considered hazardous. The rulemaking cites the ValuJet accident as a consideration in the creation of the rulemaking; however, it is our understanding that the underlying cause of this accident was the failure of a repair station to comply with regulations that were already in place at the time of the accident. To place the burden upon the airlines to train a repair station under the airline's hazardous materials program will create a financial and logistical hardship on the airlines, not to mention the hardships placed on the repair station to have their personnel trained under several different hazardous materials programs. In our opinion, the FAA should provide the direct oversight of repair stations for hazardous materials training through its existing oversight authority.

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In summary, although we agree the need exists for increased hazardous materials awareness, this rulemaking is not directed toward those who need it most: the traveling public and cargo shippers. The cost to airlines to comply with this rulemaking will be staggering, particularly during a time in which the entire industry is suffering financially. We are not of the opinion that increased hazardous materials awareness should be sacrificed for cost savings, but any increased action regarding hazardous materials must be directed to areas where it will be the most effective. This rulemaking is not the most appropriate means to accomplish the FAA's stated goals and should be fully withdrawn.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Hupfauf".

Michael A. Hupfauf
Director, Cargo Service & Sales